

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

**Hearing Date and Time:**  
**November 8, 2013 at 10:00 a.m.**

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In Re:

**EARL SIMMONS,**

Chapter 11  
Case No. 13-23254 (RDD)

Debtor.  
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**DEBTOR'S OBJECTION TO MOTION OF  
OFFICE OF THE UNITED STATES TRUSTEE  
SEEKING CONVERSION OR DISMISSAL OF CASE**

TO THE HONORABLE ROBERT D. DRAIN,  
UNITED STATES BANKRUPTCY JUDGE:

Earl Simmons, the debtor and debtor in possession herein (the "Debtor") by his attorneys, Shafferman & Feldman LLP, as and for his objection to the motion of The Office the United States Trustee seeking conversion or dismissal of the above-captioned chapter 11 case (the "Motion"), respectfully represents as follows:

1. The Motion should be denied since this case was commenced by the Debtor to exercise his rights under title 11 of the United States Code (the "Bankruptcy Code") to rehabilitate his financial affairs and to reorganize in accordance with the rights and protections afforded him under the Bankruptcy Code.

2. The undersigned has been advised that the Debtor had an unavoidable problem that caused him to not appear at the scheduled section 341 meeting. However, the undersigned has been further advised that the Debtor is committed to fulfilling his obligations as

a debtor in possession and successfully reorganizing under Chapter 11. Once a new section 341 meeting date is set, the Debtor has advised that he will attend. Additionally, the undersigned anticipates that all questions regarding the petition and schedules will be answered and, subject to all of the Debtor's rights, any relevant information that is in his possession, custody or control will be produced.

**WHEREFORE**, the Debtor seeks the entry of an order denying the Motion, or adjourning the Motion, and granting him such other and further relief as seems just, proper and equitable.

**DATED:** New York, New York  
November 1, 2013

**SHAFFERMAN & FELDMAN**  
**Counsel for the Debtor**  
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**By: /s/ Joel M. Shafferman**  
**Joel M. Shafferman (JMS-1055)**